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MASTER OF MILITARY STUDIES

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**TITLE:**

SOLVING THE ANCIENT MARITIME PROBLEM: PIRACY OPERATIONS IN THE  
GULF OF ADEN

SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF MILITARY STUDIES

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## **Executive Summary**

**Title:** Solving the Ancient Maritime Problem: Piracy Operations in the Gulf of Aden

**Author:** Lieutenant Commander Errol A. Robinson, United States Navy

**Thesis:** Nations' security interests are best served when suppressing piracy in the GOA becomes a vital or major national interest. Of note, why are pirates so success and what can nations do to solve the growing piracy operations in the Gulf of Aden?

**Discussion:** This paper will provide a holistic review of the growing piracy operation in the Gulf of Aden and provide a brief historical perspective of piracy. It will examine why piracy is flourishing and possible solutions to counter piracy. The Gulf of Aden, one of the busiest shipping lanes in the world, was the main target of Somali pirates in 2008. Relentless pirate hijackings in the area prompted the United States, the European Union, China, Russia, India and other nations to sortie warships to protect commercial and private vessels transiting the narrow waterway between Somalia and Yemen. Since October 2009, the International Maritime Bureau has recorded 33 attacks on ships.

There are many factors that contribute to the flourishing piracy problems in the Gulf of Aden to include the influences of the failed state of Somalia, the flow of heavy merchant traffic in a large body of water that is conducive to piracy, and the extensive use of up-to-date information and technology systems in the littorals by pirates. As the challenges and costs of piracy continue to grow in 2010, the International Maritime Organization (IMO) has been pressured to developed solutions to counter this maritime epidemic in the Gulf of Aden.

The surge of piracy in the Gulf of Aden does not require new law, but it does demonstrate that the international community needs to further refine common understandings over legal issues surrounding high-seas piracy and the use of naval patrols as military solutions. Additionally, the United States has laws against piracy of long standing, including Title 18 of the U.S. Code, section 1651. But, in order for counter-piracy operation to have lasting solution, the international community must implement a number of measures. Counter-piracy efforts have been focused in five main areas to include coalition naval presence, additional use of existing patrol coastal crafts, employing various military force, establishment of an international legal framework for resolving piracy cases, and improving the shipping industry's defensive measures.

**Conclusion:** It is quite evident that pirates are successful because their operating bases are staged in the lawless country of Somalia, they are operating in a vast body of uncontrolled water, and they are armed with state-of-the-art information of suspecting target of opportunities. To defeat piracy, the international community must form coalition partners from many nations to patrol the vast body of water, use existing low-cost patrol coastal ships to perform escort duties, employ military forces, refine existing international legal authority for prosecuting offenders, and train transiting merchant ships on the use of effective tactics to avert capture. Furthermore, greater coherence between security and development policies is a key in establishing an effective whole of government approach to solve piracy.

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## Preface

This paper addresses the growing problems of piracy in the Gulf of Aden and offers different approaches to solve this ancient problem. I chose this topic for a number of reasons. First, I have seen the challenges first-hand in countering piracy in the Gulf of Aden and having recently completed a deployment in 2008 and 2009 with Combined Task Force 151, embarked aboard *USS Monterey* (CG 61), I can render various solutions to address the problem. Last, as the United States look beyond Iraq and Afghanistan, I think the next major source of employment for the U.S. Navy, Marine Corps, and Inter-agencies reside in the Gulf of Aden region combating piracy. I would like to acknowledge the following individuals for their expert advice, resourcefulness and incredible guidance: Dr. Mark Jacobsen, Captain Todd Bostock, Staffs of the Office of Chief of Naval Operations, and staff of Center for Naval Analyses.

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It was an early morning in the Gulf of Aden (GOA) and the sun began its hot ascent over the water. In a Boston whaler-sized boat, a group of Somali men woke-up and started chewing some khat, an addictive drug that creates euphoric feelings, and surveyed the water around them. The sea was flat, so they were able to effectively use a radar device and a handheld GPS receiver to scan the water for nearby vessels. It did not take long to spot a slow-moving ship and using their powerful binoculars, it revealed that it was a cargo ship with a low freeboard. From the pirates' perspective, the conditions were perfect for what they had planned. Nine of the men transferred from the vessel they were on to a smaller, speedier skiff. They had armed themselves with rocket-propelled grenades (RPGs) and automatic rifles (AK-47s). It had shaped up to be a good day for these men, commonly known as pirates. The pirates hurtled through the water, and when they were within range of the cargo ship, they fired the RPGs across the bridge of the cargo ship with the intent of frightening the ship's master into stopping. In this instance, the ship's master did exactly as the pirates hoped and shut down the ship's engines.

Fortunately, the ship's master had just enough time to make a distress call on the maritime bridge-to-bridge radio before the pirates stormed his vessel. The emergency broadcast sent out indicated that his ship was under attack. The ship's master actions triggered an instant reaction from Combined Task Force 151 (CTF 151) embarked aboard *USS Monterey*, a task force the United States stood-up in January 2009.<sup>1</sup> As the pirates maneuvered to get close enough to the vessel to throw a ladder with grappling hooks over her low freeboard, members of *USS Monterey's* Visit, Board, Search and Seizure (VBSS) team were deployed to the area, while the ship's helicopter raced ahead. That morning, the pirates were in for an unpleasant surprise because CTF 151 assets were close by and

arrived on scene while the weapons-carrying pirates were still attempting to board the vessel. The fact that the pirates were caught in the act and they had not yet taken anyone hostage, CTF 151 had time to stop them in their tracks. In the ensuing struggle with the pirates, one of the pirates opened fire with his AK-47, so he was shot and killed while the remaining pirates were apprehended.<sup>2</sup>

Acts of piracy occur more and more often in the troubled Gulf of Aden and Indian Ocean. Moreover, things do not always turn out so favorably for the cargo vessel and her crew and depending on how far away a besieged vessel is, it can take time for help to arrive and if that help comes too late, pirates may be in control of the situation. The goal of modern-day pirates operating in the Gulf of Aden is primarily to make money by taking over a ship, seizing hostages and cargo, and waiting for the shipping company to pay a ransom.<sup>3</sup> Successful piracy usually translates into \$1 million to \$3 million in ransom per ship.<sup>4</sup> From all appearances, the pirates are menacing a large number of ships off the coast of Somalia, with more than 30,000 vessels passing through the GOA every year, and 15 percent of the oil in the world goes through the GOA.<sup>5</sup> With that said, nations' security interests are best served when suppressing piracy in the GOA becomes a vital or major national interest. So, with the primitive strategy of these modern-day pirates operating in the GOA, the question remains, why are pirates so success and what can nations do to solve the growing piracy operations in the Gulf of Aden? To first answer the question, it is imperative to address the history of piracy and examine the source for its sustainment.

## Background

Pirates often are in the news for their criminal activities at sea, but their antics are far from new. Pirates have been around since man first took to the high seas, and a type of sea raider known as a privateer made a mark between the 15th and 19th centuries.<sup>6</sup> From the colonial waterways of the American Revolution to the Straits of Malacca, and now the Gulf of Aden, nations' navies have established a long and proud heritage of battling pirates on the high seas. Michael Crawford, a senior Navy historian, traced the rise of privateering and touched on strategies to combat modern pirates.<sup>7</sup> Crawford traced the rise of privateering to the 15th century, when members of the Merchant Marine appealed to their kings after losing property in attacks at sea. The Monarchs issued them letters of "marque and reprisal," giving them permission to retaliate and recoup their losses. The use of privateers eventually expanded from peacetime to wartime, so the kings realized they could take advantage of these private merchants who had armed ships to supplement their navies.<sup>8</sup> International conventions drafted in the 19th century effectively ended the recognition of privateering as a legitimate form of warfare. However, pirates continue to attack commercial and naval ships to threaten regional security.

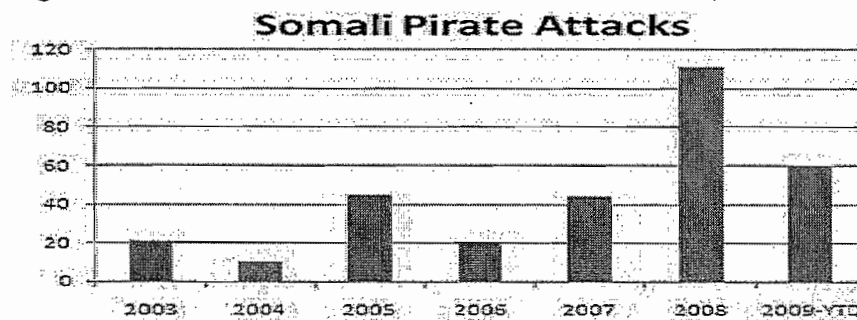
As navies from various nations became more sophisticated in weaponry and technology, such as radars, satellites and aircraft patrols, the ability to patrol the high seas and guard against potential threats became easier. However, modern technologies fail to eliminate piracy activity. For example, on 26 August 2009, Navy officials reported that Somali pirates aboard a hijacked ship fired at a navy helicopter from the *USS Chancellorsville*, then conducting maritime patrol in the GOA.<sup>9</sup> Additionally, Somali

pirates hijacked the Taiwanese-flagged *Win Far* vessel in April and have since used it as a "mother ship" to conduct attacks, including an attack on the United States flagged ship *Maersk-Alabama* in the Indian Ocean south of Garacad, Somalia.<sup>10</sup> Meanwhile, about 30 ships from 17 nations are taking part in missions to deter, disrupt and suppress acts of piracy off the Somalia coast, using similar strategies used to fight privateers in centuries past.<sup>11</sup>

### Piracy in Most Recent Years

Somali pirates have hijacked more than 80 ships in 2008 and 2009 (see figure 1). The last hijackings in December 2009 brought the number of attempted attacks in the Gulf of Aden and off Somalia to 214 for the year, with 47 vessels successfully hijacked.<sup>12</sup> The International Maritime Bureau in London reported that piracy incidents on the high seas increased nearly 40 percent in 2009 from a year earlier, and pirate activities off the coast of Somalia accounted for more than half of all attacks worldwide.<sup>13</sup> In its annual report, the maritime watchdog said the number of attacks off the coast of Somalia doubled in 2009 from 111 to 214.<sup>14</sup> According to the Bureau, pirates successfully hijacked 47 of those vessels and took over 800 crewmembers hostage, earning them untold millions in ransom payments.

Figure 1: Somali Pirate Attacks



Source: Author's Analysis of IMB statistics and United Nations Reporting

The Gulf of Aden, one of the busiest shipping lanes in the world, was the main target of Somali pirates in 2008. Relentless pirate attacks and dozens of hijackings in the area prompted the United States, the European Union, China, Russia, India and other nations to send warships to protect commercial and private vessels transiting the narrow waterway between Somalia and Yemen. Since October 2009, the International Maritime Bureau has recorded 33 attacks on ships in the Indian Ocean.<sup>15</sup> The Bureau said that 13 vessels have been seized. With so many ships seized in such a short time, the International Bureau saw it necessary to build coalition partners, such as CTF 151, to address the growing piracy activities in the GOA.<sup>16</sup> In late 2008, the U.S. established CTF 151 to confront the escalating attacks by Somali pirates after more than 100 ships came under siege in 2008.<sup>17</sup> Nonetheless, there are many factors that contribute to the flourishing piracy problems in the Gulf of Aden to include the influences of the failed state of Somalia, heavy merchant traffic in a large body of water that is conducive to piracy, and the extensive use of up-to-date information and technology systems in the littorals by the modern-day pirates.

### **Why Piracy is Flourishing**

#### **Failed State of Somalia**

First, piracy is flourishing because the network of pirates operating base continue to prosper from the failed state of Somalia.<sup>18</sup> Aside from the autonomous, broadly self-governed enclaves of Somaliland and Puntland in the northern parts of the country, Somalia has suffered under “governance” by a succession of tribal factions, warlords, Islamist groups, and foreign interventions for the past 18 years.<sup>19</sup> The development of

full-scale civil war in 1988 resulted in the overthrow of the Somali government by 1991. The situation led the United Nations (UN) to intervene, restore hope and briefly calmed the situation in December 1992, persuading fifteen warring groups to convene in Addis Ababa in January 1993 for peace and disarmament talks. However, in March 1994 American and European units in the UN were forced to withdraw from Somalia, finding their level of casualties unacceptable.<sup>20</sup> After the UN withdrew from Somalia without restoring a central government, little progress has been made in creating a security infrastructure, including administrative and legal institutions on land.<sup>21</sup>

Since 2004, the U.N., the United States, and few other countries have supported the Transitional Federal Government (TFG) diplomatically and financially in an attempt to promote a functioning central government.<sup>22</sup> Although the international community recognized TFG as the legitimate government of Somalia, TFG has proven to be a weak institution, hindered by a lack of legitimacy among the Somali population. Since Somalia has no navy or coast guard, it cannot participate in the security of coastal area. Pirate activities in the region have focused on the Gulf of Aden, a key component of the Suez Canal shipping lane linking Asia and the Mediterranean without navigating around the African continent. The Gulf of Aden, covering 205,000 square miles, flows about 920 miles between Yemen, Somalia, and Djibouti (see figure 2).<sup>23</sup> Ultimately, eliminating the pirate threat requires restoring governance to Somalia.

Figure 2: Map of the Gulf of Aden



Source: Atlantic Council

The pirates live in Somalia, where they sell the fruits of their piracy, acquire resources for more missions, and collect intelligence needed to target ships from onshore spies.<sup>24</sup> Cutting pirates off from these benefits is central to suppressing Somali piracy over the long term. Interest in dealing with the lawlessness and instability in Somalia has been elevated by the recent press attention on piracy. For instance, on 7 September 2009 a dispute erupted between authorities in Somalia and the Seychelles after the island nation released 23 suspected Somali pirates in what appeared to be a trade for hostages from the Seychelles.<sup>25</sup> At the same time, illegal trawlers began fishing Somalia's seas with an estimated \$300 million of tuna, shrimp, and lobster being taken each year, depleting stocks previously available to local fishermen. As a result, the U.S. should seek an approach to Somalia that capitalizes on existing realities with a medium to long-term strategy that restores international respect for Somali sovereignty, while making it clear that piracy is not an acceptable strategy for responding to illegal foreign fishing incursions from foreign fishermen in Somalia's waters.

While Somalia is a largely ungoverned country with a shoreline stretching over 1,500 miles that equals the distance from Miami to Maine, the primary industry and livelihood of coastal Somalia has always been fishing, and Somalis are capable mariners.<sup>26</sup> During the last year, and especially the summer and fall of 2009, piracy incidents and ransom payouts increased dramatically. The lack of governance, poor economic conditions, vast coastline, and numerous vessels along the coast created a situation allowing pirates to mix in with legal fisherman, evade coalition navies, and take merchant vessels hostage with little or no consequences. For the past several years,

countries in the region and some states victim to piracy have largely been unwilling or unable to receive and prosecute captured pirates, so there was no legal deterrent or risk to those committing piracy. This inability to deal with apprehended pirates, or persons under control (PUCs) has been a significant impediment to stemming the rising tide of piracy.<sup>27</sup>

### **Large Ocean for Pirate Attacks**

Second, international naval forces have considerable difficulty in completely securing the vast area of ocean where Somali pirates are hijacking ships in the GOA. For instance, in December of 2009, pirates captured the Greek-flagged tanker *Maran Centaurus* while it was carrying 275,000 metric tons of crude oil.<sup>28</sup> That is equivalent to about 2 million barrels of oil worth roughly \$150 million, stated Ben Cahill, head of the Petroleum Risk Manager service at PFC Energy. *Maran Centaurus* was traveling east of an area that the EU Naval Force advises tankers to steer clear of, therefore it would not necessarily have expected to be attacked. As of this writing, pirates hold 11 ships and 264 crewmembers off the coast of Somalia. As pirate activity has increased in the GOA, some ships have begun carrying armed guards.<sup>29</sup> Nonetheless, if attacks increase, those tankers will have to steer clear of a large part of the northwest Indian Ocean, southern coastlines in the Gulf of Aden, and southwest Arabian Sea, adding days to the trip.

Pirates are now attacking ships as far as 1,000 square miles off the Somali coast so it presents a large challenge and that the EU force will never fully secure such a large area.<sup>30</sup> The EU Naval Force's strategy in the smaller Gulf of Aden is to route merchant traffic at higher speed further away from Somalia's coastline, lengthening the amount of time it takes pirates to get on board so that a warship or helicopter can be dispatched to the scene. Somalia's 1,880-mile coastline has become a pirate haven. The impoverished



Gulf of Aden nation has not had a functioning government for a generation, and the weak U.N.-backed administration is too busy fighting an Islamic insurgency to go after pirates. On 15 November 2008, the Saudi-owned *Sirius Star* was hijacked, leading to heightened international efforts to fight piracy in the Gulf of Aden. That hijacking ended with a \$3 million ransom payment.<sup>31</sup> The ship held 2 million barrels of oil valued at about \$100 million and was released last January. These threats of criminal activities prompted the EU Naval Force to escort humanitarian aid through the GOA to Somalia, including World Food Program aid. To date of this paper, the EU force has escorted more than 50 convoys and 300,000 tons of food through the GOA.

### **Use of Information Operation**

Third, although most pirate gangs seek targets of opportunity, successful gangs are believed to receive shipping information, such as ship's routing, capacity, cargo, crew and defenses, from port or government officials. Armed with this information, pirates lie in wait to execute a coordinated attack. This reconnaissance and information gathering phase helps reduce operating costs and focuses the efforts of the pirate gangs.

Coordinated attacks, described earlier, usually result in a successful boarding and takeovers. According to most reports, a pirate attack takes approximately fifteen minutes to complete. Once the gangs commandeer a ship with possibly inside help, the crew is forced to steer towards a favored pirate mooring, usually off villages such as Garad, Eyl, Hobyo or Harardhere, in northeast or central Somalia.<sup>32</sup> This reduces the likelihood of rescue and facilitates the provision of supplies for the pirates and their captives during the negotiation process, which could last days or months.

Private security companies are contracted by shipping agents to deliver most ransoms directly to the hijacked ships either by boats or, more recently, via air-drops from specially equipped light aircrafts. Estimates of annual ransom paid to Somali pirate networks in 2008 vary from \$50 million to \$130 million.<sup>33</sup> Over 16 hijacked vessels were released and granted safe passage after the ransoms were paid. The actual and perceived success of piracy has led to a proliferation of recruits and an ever-increasing number of pirate gangs. Nonetheless, piracy imposes tremendous costs on the global economy. According to international shipping organizations, insurance rates for ships have risen to \$20,000 per voyage in 2009 because of piracy, from an estimated \$500 in 2008, a forty-fold increase.<sup>34</sup> Using the alternate route around the Cape of Good Hope, adds roughly 3,500 miles to the journey and lead to an increase in fuel costs. Moreover, deterring pirates, using self-defense measures, is very costly. For example, long-range acoustical devices cost \$20,000 to \$30,000 each and permanent onboard security guards could be prohibitively expensive.<sup>35</sup> It costs an estimated \$1.3 million to deploy a frigate for a month, and approximately \$200 to \$350 million to sustain naval vessels in the Gulf of Aden annually.<sup>36</sup> As the challenges and costs of piracy continue to grow in 2010, the International Maritime Organization (IMO) has been pressured to developed solutions to counter this maritime epidemic in the Gulf of Aden.

### **Solution for Piracy**

All nations using the sea have jurisdiction in the fight against piracy. Both the 1958 Geneva Convention and the 1982 United Nations Convention concerning the Law of the Sea hold that all states must cooperate to the fullest measure in suppressing piracy.<sup>37</sup> So, the surge of piracy in the Gulf of Aden does not require new law, but it does

demonstrate that the international community needs to further refine common understandings over legal issues surrounding high-seas piracy and the use of naval patrols as military solutions. Additionally, the United States has laws against piracy of long standing, including Title 18 of the U.S. Code, section 1651, which provides that “Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.”<sup>38</sup> But, in order for counter-piracy operation to have lasting solution, the international community must implement a number of measures. Counter-piracy efforts have been focused in five main areas to include coalition naval presence, additional use of existing patrol coastal crafts, employing various military force, establishment of an international legal framework for resolving piracy cases, and improving the shipping industry’s defensive measures.

### **Establishing Coalition Partnership**

First, building a coalition is essential in preventing and deterring piracy in the Gulf of Aden, so CTF 151’s mission includes the use of helicopters; unmanned aerial vehicles; Visit, Board, Search and Seizure teams; Coast Guard and Marine personnel; as well as ships and crew from countries such as the United Kingdom, Turkey, and Denmark.<sup>39</sup> While the partnering among nations may be getting overlooked in the media, what is getting a lot of press, of course, are the attacks, and attempted attacks. Television, newspapers, and the Internet continue to feature alarming stories about piracy daily. Along with CTF 151, other security groups, such as North Atlantic Treaty Organization’s (NATO) Standing NATO Maritime Group One and the European Union’s Operation

Atalanta, are patrolling the area. In addition, Russia, China, and Iran have sent ships to the GOA, but they tend to only escort vessels bearing their countries' flags.

In December 2008, the European Union launched its first maritime operation. Operation Atalanta has among its aims is the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast.<sup>40</sup> Established initially for a one-year period, Operation Atalanta has been extended further for an additional year until December 2010. Off Somalia, the naval force was under Spanish command with a total complement of 13 warships and three aircraft.<sup>41</sup> So, while escorting ships tends to be expensive, nations already have the adequate warships, such as patrol coastal ship, to perform the low-cost merchant escort mission.

### **Implementing Merchant Escorts**

Second, for several years the Patrol Coastal Ships (PC) have been conducting oil platform security missions in the northern Persian Gulf. There is never a day when a PC is not defending a sector around the Khor al Amaya or Al Basra oil terminals. Many opinions can be drawn from the oil platform security mission, but one thing is certain, the patrol coastal ships can establish the foundation for the entire U.S. strategy in combating piracy in the GOA. Without a vital maritime infrastructure in place to facilitate the necessary free passage of the sea when transporting commerce through the Suez Canal, nations in the Middle East cannot sustain their economic progress. Furthermore, if nations such as Iraq cannot defend their oil transport ships against piracy, government instability in the Arabian region becomes threatened, leading to lawlessness, stifling free market capitalism, and potentially creating an economic chaos.

Even though the PC mission is relevant and critical to our success in defending Iraq's oil platforms, there will come a time when U.S. Navy ships will no longer be needed to permanently guard the oil terminals. But when that happens, the United States will still have continued interest in the GOA region, and maintaining a maritime influence with Gulf nations will remain critical, perhaps more so, as increased commercial shipments will need PC protection while they transit freely without the fear of piracy. Keeping the seas free of potential piracy will increasingly advance the region's cooperation initiatives, and one of the most effective ways to do this is to patrol GOA and the coast of Somalia with small surface combatants, such as Patrol Coastal Ships.

Figure 3: Vessels Escorted by EU NAVFOR for the WFP

VESSELS ESCORTED BY EU NAVFOR FOR THE WORLD FOOD PROGRAMME		
	Number of escorts	Tons of food delivered
from 08/12/2008 to 16/09/2009	47	more than 278 300
Number of Somalis fed: on average, more than 1 600 000 each day		

Source: The EU naval operation against piracy Fact-sheet

Strategic naval imperatives identified in the Cooperative Strategy for 21st Century Seapower identified that patrol coastal ships are arguably capable of conducting sea control, deterrence, presence, humanitarian, and piracy operations.<sup>42</sup> To conduct these missions effectively, these patrol craft must rely on our global maritime partners to make significant contributions, especially in countering piracy. Clearly, the value of a comprehensive engagement strategy to contend with piracy, smuggling, human trafficking, and other criminal activity cannot be overstated. Accordingly, if we are going to fully comply with the piracy requirements of the cooperative strategy, now might be

the time to dedicate the resources for the next generation of patrol ships to counter-piracy in the GOA. Naturally, cost is a dominant concern when procuring a future ship class to contend with piracy, but with a little bit of imagination and the courage to challenge today's fleet-profile paradigms, a rough order-of-magnitude answer is possible for affordable surface combatant ships.

Furthermore, in the spring of 2009 the Commander of Second Fleet conducted its first Fleet Irregular Warfare Training in the vicinity of the Atlantic Undersea Test and Evaluation Center and in the Jacksonville operating area.<sup>43</sup> This exercise differed from traditional war-at-sea training by exposing commanding officers and their crews to complex and uncertain environments similar to what they might face in today's real-world unstable regions, such as Somalia. The training objectives included visit, board, search, and seizure procedures on suspect vessels, counter-piracy, hostage scenarios, and detainee operations. These warfare skills are increasingly necessary for the Navy as it sails into the ungoverned and lawless waters where American interests must be protected. But irregular warfare is more than that; it relies on our ability to understand social dynamics, tribal politics, religious influences, and cultural norms. It will depend on building global capability and will not be won by the United States alone. Only a long and extended presence in numerous regions will achieve the capacity to expand U.S. counter-piracy operational reach. Theater Security Cooperation is the mechanism to achieve and maintain the long-term irregular warfare skills needed by the Navy and its partners. This cooperation will build the relationship, trust, and numbers, with irregular warfare proficiency as the goal to combat piracy.

## **Military Force**

Third, some commentators believe direct military action could address what is perceived to be a security failure in a fragile state. This includes proposals for the use of more lethal force to neutralize pirates on the high seas and destroy their bases on the land.<sup>44</sup> Call for such extreme actions were heard when Somali pirates holding a hijacked ship fired at a U.S. Navy helicopter as it made a surveillance flight over the vessel, the first such attack by pirates on an American military aircraft.<sup>45</sup> However, given the substantial financial investment and significant political capital required to assemble and sustain multi-national navies in the Gulf of Aden, other speculators believe that private security firms could be a more efficient option.<sup>46</sup> Lethal force as a first option could exacerbate violence and endanger the lives of hostages already being held and those who might be taken in the future. In addition to the military approach to counter-piracy attacks, the government is moving on three other fronts to curtail attacks. Diplomacy, helping the shipping industry bolsters self-defense efforts, and improving judicial capacity in the region to prosecute and penalize pirates are all parts of the strategy.<sup>47</sup>

In response to the increasing frequency of piracy, U.S. Naval Forces Central Command (NAVCENT) developed and is executing a counter-piracy campaign plan.<sup>48</sup> NAVCENT began by designating a Maritime Security Patrol Area in the Gulf of Aden where merchant vessels could transit with a higher probability of encountering naval vessels along the route for protection. NAVCENT also energized the commercial shipping industry and interfaced with the International Maritime Organization, providing “best practices” to mariners in order to avoid pirates. Initially in the summer and early fall of 2008, relations between navies and industries were strained with each side

believing the other could be doing more to prevent acts of piracy. However, through continued dialogue with concerned stakeholders, cooperation with industry is improving. NAVCENT garnered the support and participation of several navies who have contributed ships to the campaign.

Moreover, pirate gangs do not have permanent land bases and could quickly reorganize and deploy from other locations. On the other hand, pirates have their own sea-basing structures known as “mother ships” that include high-speed skiffs that are used for attacks. Other studies consider piracy to be an unavoidable nuisance and add that it is cheaper to pay the pirates than hire security guards. One could contend that low-key ransom payments are affordable and less likely to raise insurance premiums, but this approach is not sustainable because it could encourage the growth and expansion of pirate activity, which over time could make such payments prohibitive. Yet another school of thought advocates a focus on providing development assistance and employment alternatives for the pirates, citing the “legitimate” concerns of the militia, including environmental pollution and poaching. In the end, available evidence suggests that Somali piracy has more to do with private gains for the networks than the public good.

### **Legal Authority to Prosecute Pirates**

Fourth, on 2 December 2008, the United Nations Security Council unanimously passed UNSCR 1846.<sup>49</sup> The resolution provides certain legal authorities for countering piracy off the coast of Somalia and calls on states to increase cooperation in counter-piracy operations, paving the way for CTF 151 to counter piracy.<sup>50</sup> Piracy has always been a crime of universal jurisdiction and international law has long recognized a general



duty of all nations to cooperate in the suppression of piracy.<sup>51</sup> It should also be noted that other countries have encountered difficulty in prosecuting suspected pirates in their domestic courts. For instance, the Danish Navy recently captured several suspected pirates and was unable to prosecute them on their own.<sup>52</sup> Additionally, Japan is currently reviewing its domestic legislation to make it more effective against suspected pirates; however, domestic politics are delaying any immediate action. The United Kingdom has proposed modifications to domestic legislation to facilitate prosecutions and recently reached an agreement with Kenya under which Kenya will accept jurisdiction of pirates captured by UK forces. Pirates recently captured by *HMS Cumberland* have been turned over to Kenya, where they are currently on trial as of the paper. In January 2009, the government of Kenya agreed to accept and try suspected pirates captured by the U.S. military, through a Memorandum of Understanding (MOU) signed by both the U.S. and Kenya.<sup>53</sup> This MOU allows the international community a viable method to deter and punish acts of piracy.

The Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) may provide a framework for delivery of suspected pirates to coastal nations for subsequent prosecution or extradition. The SUA Convention was created in the wake of the *Achille Lauro* incident and addresses crimes against ships, crew and passengers.<sup>54</sup> Offenses under the Convention include seizing a ship by force, threat or intimidation, and performing certain acts that could endanger the safe navigation of the ship, such as performing acts of violence against persons on board, destroying or damaging a ship or cargo, or communicating false information. States that are parties to the Convention are obligated to make SUA offenses punishable domestically. For

example, a master of a state party vessel may deliver suspects to another state party. The receiving state is obligated to accept delivery of suspects and then either prosecute or extradite them to another SUA Party, unless it determines SUA is not applicable.

There are currently 150 state parties to the SUA Convention, including the United States, Bahrain, Djibouti, Kenya, Oman, Qatar, Saudi Arabia, Sudan, UAE and Yemen. Understanding there may be some human rights concerns with specific nations, if these states agree to apply SUA to the actions of the pirates and follow their obligations to accept delivery of suspects to prosecute or extradite, the use of SUA can help alleviate the PUC disposition issue.

### **Averting an Attack**

Finally, there are things that merchant vessels can do to protect themselves. Some of these measures are surprisingly simple, such as posting lookouts, use of Automated Identification System (AIS), registering with the Maritime Security Centre, using speed and evasive maneuvers, and employing fire-hoses to deter aggressors as necessary.<sup>55</sup> First, posting lookouts while transiting the GOA would simply add increased awareness to vessels. In addition to the use of AIS that allows ships and shore-based systems to monitor the movements of vessels, by transmitting a short signal indicating a vessel's position, speed, and course. When ships transit the pirate-infested areas, some vessels turn off their AIS, mistakenly believing pirates can identify and target them using this system. However, pirates do not target specific ships or countries; they simply want an easy capture. AIS helps the coalition monitor a vessel that is heading into dangerous territory.<sup>56</sup> Additionally, when ships register with Maritime Security Centre Horn of Africa (MSCHOA), merchant ships register their upcoming travel plans, alerting CTF

151 that they will be going through the area. As with the AIS, this system offers another level of protection in the form of creating awareness. If a vessel is being fired at, as mentioned earlier, MSCHOA recommends the ship's master should immediately go to maximum speed and steer evasively. The pirates will likely keep firing, but they need to get alongside to ultimately succeed, and this is extremely difficult to do with a ship moving and evading. Another simple, yet effective, means of deterring a pirate from getting aboard a vessel is through the use of fire-hose.

### **Conclusion**

Today, it is quite evident that pirates are successful because their operating bases are staged in the lawless country of Somalia, they are operating in a vast body of uncontrolled water, and they are armed with state-of-the-art information of suspecting targets of opportunities. Nonetheless, to defeat piracy the international community must form coalition partners from many nations to effectively patrol the vast body of water, use existing low-cost patrol coastal ships to perform escort duties, employ military forces, refine existing international legal authority for prosecuting offenders, and train transiting merchant ships on effective tactics to avert capture. Resonating with global concerns, such as international security and crime, piracy has increasingly become a threat to the stability of the international community. Fragile coastline-states face problems in a wide range of domains, indicating the need for a mix of actors, instruments, incentives and interventions, using the whole of government approach. Furthermore, greater coherence between security and development policies is a key to establishing an effective whole of government approach to solving piracy. A clear benefit of a whole of government

approach is that it can contribute to the overall objective of long-term development and stability in the Gulf of Aden at a lower overall fiscal cost.

While more effective anti-piracy efforts should be applied to the Gulf of Aden and surrounding waters, the uniquely lawless situation in Somalia requires supplementary strategies due to the large body of water. Specifically, the U.S. must focus attention on recognizing and bolstering points of stability in Somalia and working with local authorities toward the long-term goal of expanding governance in the country and responsible coastlines. This means that piracy, as well as poaching and environmental desolation by foreigners, should be vigorously combated in the vast body of water surrounding Somalia's coastlines. Additionally, Somali piracy will not be quieted until stability takes hold in the country itself. However, this is not a problem that can be sufficiently suppressed using sea-based tactics alone. The long term solution requires a stable Somalia with a government that can effectively police her own citizens and protect the rights of those ships sailing in international waters. Moreover, piracy is an international problem that requires an international solution. CTF 151 is doing all it can to prevent attacks from happening; however, 23 ships covering a 1.1 million-square-mile area can only do so much. Using patrol crafts and unmanned aerial vehicles are invaluable assets that can help to address the near-term problem of piracy by scour a wide swath of water, especially in the Gulf of Aden.

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<sup>3</sup> Mohammed Olad Hassan, "It's a Pirate's Life for Me," BBC News, 22 April 2009, <http://news.bbc.co.uk/2/hi/africa> (accessed 28 December 2009).

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<sup>6</sup> Virginia Lunsford, "What Makes Piracy Work?" in US Naval Institute *Proceedings*, December 2008, [usni.org](http://usni.org)

<sup>7</sup> Judith Snyderman, "Rise of Piracy," American Military News (28 August 2009). <http://www.Militaryinfo.com>

<sup>8</sup> Judith Snyder, 2009.

<sup>9</sup> U.S. Naval Force Central Command, U.S. Fifth Fleet, 2009.

<sup>10</sup> Jeff Bliss, "U.S. Military Considers Attacks on Somali Pirates. Land Bases," *Bloomberg* (12 April 2009), <http://www.chinfo.navy.mil/pages/clips.html/> (accessed 10 January 2010).

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<sup>13</sup> ICC International Maritime Bureau, 2009.

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<sup>18</sup> Bureau of African Affairs, "Background Note: Somalia," U.S. Department of State, May 2009, <http://www.state.gov/r/pa/ei/bgn/2863.htm/political> (accessed 28 December, 2009).

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